

(Electronically Filed)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SEATON INSURANCE COMPANY and STONEWALL
INSURANCE COMPANY,

Plaintiffs,

-against-

CAVELL USA INC. f/k/a KEN RANDALL AMERICA, INC.
f/k/a EASTGATE, INC. and KEN RANDALL, individually,

Defendants.

Case No.: 07-CV-07032
(RMB) (KNF)

**MOTION TO ENJOIN
DEFENDANTS FROM
PROSECUTING
THE SAME CLAIMS
IN A FOREIGN ACTION**

PLEASE TAKE NOTICE that, upon the Declaration of Elizabeth Butler sworn to on March 4, 2008 and the exhibits attached thereto, the accompanying Memorandum of Law, all prior pleadings and proceedings herein, all matters as to which the Court may take judicial notice, and all other papers filed in this matter, the undersigned attorneys for Plaintiffs Seaton Insurance Company and Stonewall Insurance Company (collectively, "Plaintiffs") will move before The Honorable Richard M. Berman, U.S.D.J., United States District Court, Southern District of New York, United States Courthouse, 500 Pearl Street, Room 650, New York, New York 10007, at a date and time to be determined by the Court, for an Order:

(1) Enjoining Cavell USA Inc. and Ken Randall (collectively, "Defendants"), pursuant to Fed. R. Civ. P. 65, from prosecuting the same claims at issue in this litigation in an action that Defendants commenced against the Plaintiffs in the United Kingdom High Court of Justice, Queen's Bench Division, Commercial Court, Royal Courts of Justice (the "UK Action"); and

(2) For such other relief as the Court deems just, proper, and equitable.

The grounds for this motion are that the parties to and the issues raised by the two actions are substantially similar and the UK Action (i) constitutes a threat to this Court's validly invoked jurisdiction, (ii) is a vexatious action, (iii) threatens important public policies of this forum, (iv) prejudices equitable considerations, including the Court's interest in deterring forum shopping, and (v) will likely result in delay, inconvenience, expense and/or inconsistency and a race to judgment.

Dated: March 4, 2008

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Elizabeth Butler
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